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[New Hampshire Code of Administrative Rules](#)
[Env-Ws 371](#)

PART Env-Ws 371 CAPACITY ASSURANCE FOR PROPOSED PUBLIC WATER SYSTEMS

Statutory Authority: 485:3, XII

Env-Ws 371.01 Purpose. The purpose of these rules is to ensure that proposed public water systems have the technical, managerial, and financial capacity to meet the requirements of the New Hampshire Safe Drinking Water Act (SDWA) and to provide effective and reliable water service to all water system customers.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.02 Scope.

(a) Env-Ws 371 specifies technical, managerial, and financial capacity assurance requirements for proposed community and proposed nontransient, noncommunity public water system (PWSs).

(b) An existing water system that does not currently meet the definition of a public water system, but plans to expand in size so as to become a public water system, shall be subject to the capacity assurance requirements of Env-Ws 371.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.03 Definitions.

(a) "Business plan" means a multifaceted assessment of a water utility's projected managerial and financial condition as it affects future economic viability, compliance with the NH Safe Drinking Water Act, and effective and efficient service to customers.

(b) "Capacity assurance rules" means the requirements for a proposed PWS, as specified in Env-Ws 371, and the requirements for an existing PWS as specified in Env-Ws 363.

(c) "DES" means the department of environmental services as defined in Env-Ws 302.

(d) "Financial assurance plan" for a proposed system means the department approved component(s) of the business plan for a proposed system which provide financial data, analysis, and projections including the requirements specified in Env-Ws 371.30 through Env-Ws 371.33.

(e) "Management assurance plan" for a proposed system means the department approved component(s) of the business plan which provide business management information, analysis, and projections for a proposed system including the requirements specified in Env-Ws 371.20 through Env-Ws 371.25.

(f) "Technical design assurance plan" means the department approved configuration of the proposed public water system including appropriate sizing of supply, treatment, storage and

distribution components including the requirements specified in Env-Ws 370 through Env-Ws 379 as appropriate.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.04 Sequence of Submittals for Capacity Assurance Approval. The following shall be the required sequence of the submittals for capacity assurance approval:

- (a) Concept approval as specified in Env-Ws 372.03;
- (b) Preliminary business plan as specified in Env-Ws 371.08;
- (c) Preliminary well site submittal as specified in Env-Ws 378 or Env-Ws 379, as appropriate;
- (d) Final well site submittal as specified in Env-Ws 378 or Env-Ws 379 as appropriate;
- (e) Final technical design assurance submittal as specified in Env-Ws 370 or Env-Ws 372 and Env-Ws 373 through Env-Ws 377 as appropriate;
- (f) Revised business plan as specified in Env-Ws 378 or Env-Ws 379 as appropriate;
- (g) Approval to construct a PWS as specified in Env-Ws 371.08; and
- (h) Approval to operate.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.05 Business Plan for a Proposed Public Water System.

- (a) The business plan for a proposed water system shall include:
 - (1) A brief, non-technical description of the proposed water system and its customers;
 - (2) A general description of proposed managerial and financial matters sufficient to provide a clear understanding of the expected operational costs including capital repayment and SDWA compliance and the expected revenues associated with the water system operation;
 - (3) Detailed specific responses to the requirements specified in Env-Ws 371.20 through Env-Ws 371.25, the financial topics specified in Env-Ws 371.30 through Env-Ws 371.33 and Env-Ws 371.40; and
 - (4) A business plan that shall have a minimum 5 year analysis and planning projection.
- (b) The business plan shall be submitted to the department.

(c) The department shall approve the initial business plan if it satisfies the requirements in Env-Ws 373.10 through Env-Ws 373.39.

(d) A revised business plan shall be submitted to, and be approved by, the department once the water source development is completed and treatment capital and operational costs are determined. This phase shall be called the revised business plan. The criteria for approval shall be the same as for the initial business plan, however updated cost information shall be incorporated.

(e) The final business plan shall be submitted to and be approved by the department before construction begins on the pump station, distribution pipe or water storage tank components. The criteria for approval shall be the same as for the initial plan, however updated cost information shall be used.

(f) Individual financial pages, appropriately labeled "revised business plan" or "final business plan", and dated, may be submitted if there are no changes to the remainder of the initial business plan.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.06 Construction Approval.

(a) The department shall issue an approval to construct a proposed community or nontransient, noncommunity PWS after approvals have been obtained for the following:

(1) The technical capacity plan as specified in Env-Ws 370 or Env-Ws 372 and Env-Ws 373 through Env-Ws 377 as appropriate;

(2) The initial and revised managerial components of the business plan as specified in Env-Ws 371; and

(3) The initial and revised financial components of the business plan as specified in Env-Ws 371.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.07 Initial Operations Approval.

(a) A final certification field inspection of the facility shall be made in accordance with Env-Ws 360.04.

(b) Approval for the PWS to begin operation shall be contingent upon:

(1) Receipt of the operations manual as specified in Env-Ws 360.04; and

(2) Receipt of as-built plans as specified in Env-Ws 372.27.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.08 and Env-Ws 371.09 - RESERVED

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.10 System Technical Design Assurance Plan Approval.

(a) The technical design assurance plan shall include approvals for:

(1) The proposed water system concept;

(2) The preliminary source water development and final source water development for community systems; and

(3) The final engineering design.

(b) The concept approval, as specified in Env-Ws 372.03 or Env-Ws 370 as appropriate, shall identify:

(1) The number of users;

(2) The type and magnitude of water use; and

(3) The location of area to be served as shown, to scale, on a US Geological Survey (USGS) map.

(c) The conceptual approval identified in (b) above shall be completed before preparing the source water development plan or revised business plan.

(d) The source water submittal for community PWSs shall consist of:

(1) The preliminary source water location plan specified in Env-Ws 371 or Env-Ws 372.04 as appropriate, and Env-Ws 378 or Env-Ws 379, as appropriate; and

(2) The final source water capacity and verification plan as specified in Env-Ws 371 or Env-Ws 372.04 as appropriate, and Env-Ws 378 or Env-Ws 379, as appropriate.

(e) The engineering detailed design for community and nontransient, noncommunity systems shall consist of:

(1) Criteria for water sources approval for noncommunity, nontransient PWSs as required in Env-Ws 372.04-Env-Ws 372.06 as appropriate;

(2) Criteria for treatment including:

a. For small water systems serving populations less than 1,000 people without fire

protection, Env-Ws 372.26 through Env-Ws 372.30; and

b. For water systems serving populations over 1,000 people with or without fire protection and for small systems with fire protection, Env-Ws 375;

(3) Criteria for approving of storage facilities including:

a. For small water systems serving populations less than 1,000 people without fire protection, Env-Ws 372.17 and Env-Ws 372.23; and

b. For those water systems serving more than 1,000 people with or without fire protection, and for small systems with fire protection, Env-Ws 376; and

(4) Criteria for approving of distribution piping including:

a. For small water systems serving populations less than 1,000 people without fire protection, Env-Ws 372.25 - Env-Ws 372.27; and

b. For those water systems serving more than 1,000 people with or without fire protection, and for small systems with fire protection; Env-Ws 377.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.11 Operations Manual. Approval to operate as specified in Env-Ws 371.06 shall require finalization and approval of an operations manual as specified in Env-Ws 360.04.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.12 As-Built Drawings. Approval to operate as specified in Env-Ws 371.06 shall require finalization and submittal of as-built drawing(s), including distribution system installation quality, as specified in Env-Ws 372.22 or Env-Ws 377.0, as appropriate and shall be required before water system startup.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.13 through Env-Ws 371.19 - RESERVED

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.20 Managerial Assurance Plan.

(a) The management component of the written business plan shall address the requirements Env-Ws 371.20 through Env-Ws 371.25.

(b) Elements addressed in the management plan shall include:

(1) The management procedures for achieving compliance with the SDWA and shall include, but not necessarily be limited to:

a. A list of all SDWA compliance activities for the particular system; and

b. A monitoring schedule for the remainder of the current SDWA monitoring cycle period;

(2) Staffing and personnel provisions including the duties, methods, and identification of the position responsible for achieving effective and reliable routine system operations;

(3) The duties of the person responsible for long term capital planning, capital repair, and replacement of the water system for at least a 5 year period;

(4) A written explanation of the rationale for either hiring an employee operator for the water system or an independent contract operator.

(5) An emergency plan as specified in Env-Ws 365;

(6) A functional organizational schematic of the water system management.

(7) Organizational rules of the water system management, and rules governing the election of officers;

(8) Billing and debt collection and identification of responsible staff; and

(9) The identity of the person responsible for issuing a consumer confidence report, SDWA public notice, and similar customer interactions.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.21 Water System Ownership.

(a) The type of ownership of the proposed public water system shall be identified in the management plan.

(b) A formal governmental district may own the water system in accordance with RSA 52:1; however, a district shall not be established until the water system users have established residency.

(c) If the water system developer desires to establish a district type ownership for the water system, the rationale for this ownership type, along with informational documents, shall be attached to the business plan as specified in Env-Ws 371.07.

(d) The business plan, as specified in Env-Ws 371.07, shall also include an interim plan for

operating the system until the district is established. This interim plan shall address the possibility of the district not being formed.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.22 Assuring Payment for Water Service.

- (a) The person proposing the water system shall establish a method to ensure payment of all water bills for all customers served.
- (b) The method shall be reviewed by an attorney licensed in the State of New Hampshire.
- (c) The water system developer shall provide a statement from a NH attorney certifying that the method identified to insure payment is legal and enforceable in the State of New Hampshire.
- (d) A copy of the certification required by (c) above shall be included with the management plan.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.23 Maintaining A Connection To the Water System.

- (a) The proposed water system shall hold a deed covenant for each property which is intended to be served by the water system. The covenant shall require that the customer's water service connection to the public water system be maintained for domestic use. The covenant shall clearly state that the customer shall be liable for appropriate payment for domestic water service.
- (b) The covenant shall be reviewed by an attorney licensed in New Hampshire.
- (c) The water system developer shall provide a statement from a NH attorney certifying that the methodology selected for maintaining and using the connection to the central system is legal and enforceable in the State of New Hampshire.
- (d) A copy of this certification shall be included with the management portion of the business plan as specified in Env-Ws 372.07.
- (e) The public water system may waive the connection requirement identified in (a) above.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.24 Certified Public Water System Operator.

- (a) In accordance with RSA 332-E:10, a New Hampshire certified PWS operator shall be

retained to operate the proposed community or nontransient, noncommunity PWS.

(b) The operator shall be certified in accordance with the provisions of Env-Ws 367.

(c) If the system will be operated by a water system user, an operation method shall be proposed to ensure that the water system has a certified operator until the user is certified in accordance with Env-Ws 367.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.25 Other Requirements of the Management Component of the Business Plan.
The management component of the business plan shall include:

(a) A copy of the proposed by-laws that shall govern the managerial and administrative operations of the proposed water system;

(b) A proposed fee schedule including:

(1) Water use charge;

(2) Disconnect or activation charges;

(3) Availability charge;

(4) Hydrant and fire sprinkler charges;

(5) Late fees and fees for lost billing; and

(6) Backflow device permits and testing charges.

(c) A letter of intent from specialized contractors indicating their availability and interest in repairing the water system which shall be submitted for the following specialties:

(1) Electrical / mechanical repair of the systems as required by Env-Ws 360.08; and

(2) Repair of the distribution piping or other construction repair to the building and storage facilities as required by Env-Ws 360.08.

(d) The management components of the business plan shall contain a copy of the proposed contract or other verification signed by a New Hampshire certified water system operator to indicate that this operator is available and willing to operate the proposed system.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.26 through Env-Ws 371.29 - RESERVED

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.30 Financial Assurance Component of the Business Plan.

- (a) The business plan shall include a written financial assurance for operating the water system. The plan shall use generally accepted accounting principles in assessing the financial needs of the water system.
- (b) The plan shall identify expected receipts, disbursements, and expenses necessary to maintain a financially solvent water system.
- (c) The financial component of the business plan shall also address the requirements in Env-Ws 371.31 - Env-Ws 371.33.
- (d) The department shall approve the financial plan in accordance with the requirements of Env-Ws 371.30 through Env-Ws 371.34.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.31 Summary of Water System Construction Costs.

- (a) The developer of the water system shall maintain financial records in sufficient detail to categorize all expenditures over \$500 pertaining to the development of the water system. This summary shall be submitted to the subsequent owner(s).
- (b) The construction cost categories shall include, but not necessarily be limited to, the following:
 - (1) Water source development including:
 - a. Hydrogeologic investigation, including test well drilling as appropriate; and
 - b. Source construction;
 - (2) Water treatment equipment;
 - (3) Control building;
 - (4) Water storage facility;
 - (5) Water distribution system;
 - (6) Customer connection to the system;
 - (7) All costs associated with engineering in developing the water system, including the following:

- a. Design engineering; and
 - b. Field engineering including the verification of quality workmanship required by Env-Ws 372.25;
- (8) All legal costs associated with the establishment of the water system; and
- (9) All other water system costs not otherwise categorized and identified above.
- (c) The costs identified in (b) above shall pertain only to the water system and not the overall project.
- (d) If the water system is subject to regulation by the New Hampshire public utilities commission, a copy of the cost summary shall be provided to it before the system begins operation.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.32 Schedule of Useful Life of Water System Components.

- (a) A tabular schedule of facilities and equipment, providing average life expectancies and retail replacement price for all items costing over \$500, shall be prepared. This schedule shall serve as a reference to the new water system management to determine the size of the capital reserve fund and projected financial needs relative to system upkeep and replacement.
- (b) Replacement categories shall include:
- (1) Mechanical and electrical equipment;
 - (2) Water source;
 - (3) Water treatment equipment;
 - (4) Water storage facilities including:
 - a. Atmospheric tankage; and
 - b. Pressure tankage; and
 - (5) Water distribution facilities.
- (c) The owner of the proposed water system shall provide a written explanation as to how to calculate the life expectancy and replacement costs of the equipment.
- (d) Table 371-I shall be the useful life expectancy of water system components unless the water system owner provides an alternative schedule and justification.

Table 371-I

Anticipated Life Expectancies

Control building 40 years

Storage tanks 50 years

Pumping and control equipment 10 years

Distribution system 50 years

Wells 25 years

Water treatment equipment 10 years

(e) The requirements of Env-Ws 371.31 and Env-Ws 371.32 may be combined.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.33 Five Year Projection of the Business Plan.

(a) The financial component of the business plan shall project a 5 year period beginning with the water system concept approval submittal.

(b) The business plan shall project the annual expenses of operating the water system including:

(1) Annual operational expenses, including;

a. Taxes;

b. Straight line depreciation unless another method is justified; and

c. Expected operational expenses;

(2) Annual payment of principal and interest, or rate of return where applicable;

(3) Annual funding of a capital reserve account for general repair or replacement of existing facilities; and

(4) Annual funding of a capital reserve account for compliance with new initiatives of the SDWA.

(c) The business plan shall project annual revenue to be gained from all fees and charges for the same 5 year period.

(d) The projections in (b) and (c) above shall be compared and the net balance or deficit

shall be evaluated and appropriate modifications made by the person proposing the water system so that revenue equals or exceeds expenses.

(e) The business plan shall use generally accepted accounting principles.

(f) The business plan shall use realistic assumptions in making all projections.

(g) The financial portion of the business plan shall utilize a capital reserve account concept in projecting necessary revenue. A capital reserve account is one that sets aside funds each year to defray the cost of replacement at the projected end of that equipment's or facility's useful life. The useful life is the projected utilization period of that equipment or facility.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.34 Summary of Financial Information.

(a) All financial information affecting the water rate paid by connectees shall be summarized in one location in the business plan.

(b) The summary may be shown by identifying each year per page or identifying each year chronologically, on one page.

(c) Categories not germane to a particular system may be omitted and information not shown but germane to the business plan shall be added at the appropriate location(s) or at the end of the cost summary.

(d) All figures shall be in dollars per year unless otherwise stated. All figures shall use the same accounting time period.

(e) A summary of all projected expenses shall include:

(1) A title which shall identify:

a. Name of proposed water utility; and

b. A summary of all projected expenses for the accounting year;

(2) Any anticipated capital expenditure for new construction of the water system planned for the financial year;

(3) A list of operation expenses related to of water supply source(s) including:

a. Electrical power such as: pumping, heat, lighting;

b. Mechanical, electrical, and control repair;

c. Control building repair; and

- d. Treatment of the water including:
 - 1. Equipment repair;
 - 2. Chemicals and field water quality test equipment;
 - 3. Non-compliance laboratory tests; and
- e. Other supply oriented expenditures; and
- (4) The cost for water distribution system repair;
- (5) The cost for water storage repair;
- (6) A list of water system administration and personnel including:
 - a. Certified operator, if contractual;
 - b. Other staff;
 - c. Management expense;
 - d. Contractual, legal, administrative;
 - e. Compliance water quality testing; and
 - f. Other operational costs;
- (7) A list of any depreciation of the following items if applicable:
 - a. Water supplies;
 - b. Treatment;
 - c. Storage tanks;
 - d. Distribution piping; and
 - e. Other depreciation expenses;
- (8) A list of any debt if applicable:
 - a. The water supply system indebtedness shall be identified as:
\$ _____/(DURATION YEARS)___ / (INT. RATE)____; and
 - b. Debt repayment;
- (9) A list of any capital reserve accounts, if applicable, including:

- a. Water supply(ies);
- b. Treatment;
- c. Storage;
- d. Piping; and
- e. Other capital reserve expenses;

(10) A list of any taxes:

- a. Real estate taxes;
- b. Business profits taxes; and
- c. Other applicable taxes; and

(11) The identification of total annual operational expenses for accounting the year.

(f) A summary of the calculation of the projected water rate shall include:

(1) A title which shall identify:

- a. Name of proposed water utility; and
- b. Summary of projected water rate for the accounting year.

(2) A list of the total number of existing connectees;

(3) A list of the projected connectees by the end of the accounting year;

(4) A list of projected expenses for the accounting year;

(5) A list of projected financial contributions by others;

(6) The water system cost to be financed by users; and

(7) The anticipated average water service rate per connectee.

Source. (See Revision Note at chapter heading for Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.35 through Env-Ws 371.39 - RESERVED

Source. (See Revision Note at chapter heading for

Env-Ws 300) #6521, eff 6-4-97; ss by #7105,

Env-Ws 371.40 Water Rate Notice to Future Water Service Customers.

(a) Based on the financial analysis required under Env-Ws 371.20 - 25, above, a projected water rate for an average user shall be projected for the entire 5 year period.

(b) The water system owner or representative shall show the projected rate notice to the initial purchasers of the real estate intended to be serviced by the water system.

(c) The owner of the water system shall have each initial purchaser of the real estate sign a copy of the rate notification document. This certification copy shall be kept by the water system owner and shall be subject to department review.

(d) If the initial purchaser refuses to sign the rate notification document, the water system owner shall include the following statement in the deed:

"This property is served by a public water system. As a public water system it is subject to the US EPA and New Hampshire Safe Drinking Water Acts. Compliance with the Act can have significant expense. Revenue to meet these expenses is derived entirely from the users.

The projected water use for this home is (FILL IN TYPICAL USAGE) gallons per day. Based on that usage, the projected water rates for the next 5 years are:

(Year 1) (Dollars per year)

(Year 2) (Dollars per year)

(Year 3) (Dollars per year)

(Year 4) (Dollars per year)

(Year 5) (Dollars per year)"

(e) The water system owner will keep a copy of the rate notification notice for examination by department personnel.

Source. (See Revision Note at chapter heading for
Env-Ws 300) #6521, eff 6-4-97; ss by #7105,